Our two most important written opinions concerning local exchange service competition have been Order No. 71155, issued in Phase I on April 25, 1994, and Order No. 71485, issued in Case No. 8587 on October 5, 1994. Even though these decisions were issued only six months apart, the focus of our discussion of interconnection rates in Order No. 71485 is quite different from that contained in Order No. 71155.

As noted earlier, in Order No. 71155 our concerns centered on two themes: making sure that the interconnection rate was low enough that competition could occur; and making sure that the rate paid BA-MD provided it with contribution sufficient to prevent rates from rising for residential and rural customers. Thus, in Phase II, Bell Atlantic is prone to cite language from Order No. 71155 that is most favorable to its position in this proceeding. For instance, at 85 Md. PSC 60, we stated that:

> . . . a competitive carrier should be required to make a contribution to that portion of the joint and common costs of the ubiquitous network that was heretofore provided by the local business service which the incumbent carrier will lose to competition.

Bell Atlantic apparently interprets this and other language in Order No. 71155 as countenancing an interconnection rate that compensates BA-MD for its joint and common costs, investment in outmoded plant, subsidies to rural areas of the State, and taxes not captured in its incremental cost analysis, among other items, as proposed by its witnesses. Bell Atlantic's analysis presumes that we intended, in Order No. 71155, that for every line served by a co-carrier, the co-carrier should pay BA-MD an amount equal to Bell Atlantic's "cost of ubiquity" divided by the current number of access lines served by BA-MD.

While the language BA-MD cites from Order No. 71155 does not foreclose such a result, other language in that Order demonstrates that Bell Atlantic's interpretation was not our intention. For example, at 85 Md. PSC 60, we noted, in the sentence immediately following the language reprinted above, that we disagreed with BA-MD's position on what constitutes a reasonable contribution. Later on that same page, we observed that we shared concerns expressed by some parties that BA-MD's proposed rates would result in an unduly high contribution element. Finally, as also noted previously, we rejected Bell Atlantic's proposed rate structure and some of the rate elements.

In recognition of our rejection of its proposal in Phase I, BA-MD presents in Phase II what it says is a different interconnection proposal. In Phase I, BA-MD proposed recovering its incremental costs of providing interconnection and a substantial portion of the contribution that BA-MD would lose when it loses a customer to a co-carrier. In Phase II, its interconnection proposal would recover the incremental costs of interconnection, plus shared and common costs, subsidies to rural areas, investment in outmoded plant, additional taxes, and other costs. Thus, Bell Atlantic stresses that its Phase I proposal was designed to recover contribution, while its Phase II proposal is intended for the different purpose of recovering joint, common, and other costs.

There are two significant problems with BA-MD's current proposal. First, in Phase I, BA-MD witnesses Kahn and Taylor presented a competitive parity/efficient market justification for its interconnection rate proposal. The Kahn/Taylor theory posited that a carrier entering BA-MD's local service markets should provide to BA-MD the same level of contribution, for each customer served, that BA-MD itself earned from that customer. The per line costs and contribution that BA-MD proposed recovering in Phase amounted to $34.95 per month.[14]

In rejecting this proposal, we expressed agreement with several opinions of the Federal Communications Commission ("FCC"). The FCC had noted that the application of the Kahn/Taylor theory reduces the benefits that competition can make available to consumers, and that the theory forces interconnectors to bear a significant portion of overheads, resulting in an unduly high contribution element.

In Phase II, Dr. Taylor, instead of advocating the efficient market theory again, presents a different basis for BA-MD's proposal, in line with his reading of our precedent in Phase I. As noted above, to fulfill this interpretation of the precedent, Ms. Beard calculates Bell Atlantic's fixed, common, and other costs, including unrecovered taxes and depreciation expense associated with outmoded plant, and subsidies that it claims flow to some Maryland counties. Mr. Gilbert proposes

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[14] In Phase I, Bell Atlantic proposed recovering existing levels of contribution provided by the following services: local dial tone line; local usage; intraLATA toll; and intrastate access.

recovering some of these costs on an MOU basis and the rest on a per line basis, and devises the first two parts of his three-part interconnection rate to recover them.

In the course of justifying BA-MD's approach, Dr. Taylor testified that "an equally-efficient, similarly-situated competitor that served Maryland ubiquitously . . . would also incur these costs . . . ." However, one way that competition works to ensure the lowest possible prices is by forcing competitors to be as efficient as they can. Accordingly, one goal of a competitive local exchange market is greater efficiencies, not efficiencies equal to those currently achieved.

The economists in Phase I and Case No. 8587 were unanimous in the opinion that free market competition is superior to regulation in driving rates toward costs and in maximizing service offerings to the public. Where there is no compelling purpose in foreclosing competitors from a market,[15] it is evident that we should adopt interconnection policies and rates that make competition possible.

This points to the second problem with BA-MD's proposed rates. In Phase I, stating it needed to recover existing levels of contribution, Bell Atlantic sought to recover $34.85 per line from its competitors. In Phase II, stating it needs to recover existing levels of costs, the result is practically the same. The combination of Mr. Gilbert's MOU charges, the offsets for

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[15] As indicated above and in Phase I, the Commission is without jurisdiction to foreclose competition from such services as cellular and other wireless formats.

interconnection rates BA-MD expects to pay to co-carriers and the average per line rate amounts to about $30.00 per line.

Accordingly, while we appreciate BA-MD's efforts to comport its Phase II proposal with our guidance contained in Order No. 71155, we conclude that Bell Atlantic's proposal misses the mark. Our language in Phase I expresses an interest in allowing "a contribution to," not recovery of, BA-MD's joint and common costs in an interconnection rate. The precedent certainly does not support BA-MD's proposal to recover joint, common, and other costs many multiples in excess of the actual incremental cost of interconnection.

Moreover, a reading of Order No. 71485 discloses that six months after the issuance of our Phase I Order, we distinguished between, and completely separated, the issue of ensuring that BA-MD recovered a fair share of its joint and common costs in its rate for interconnection, and the issue of ensuring universal service. More specifically, we said that:

> . . . as a result of this proceeding, the components of interconnection rates have become more clearly defined. The issue of recovering fixed and common costs is separate from the issue of maintaining subsidies considered necessary to preserve universal service. We do not consider a TSLRIC mark-up, for fixed and common costs, to be a component of universal service funding. Such a mark-up is important for accurate cost-based ratemaking. If fixed costs are not properly allocated to all services which are provided by a carrier, some services will have to shoulder an unfair allocation of common costs. While this may put upward pressure on such rates, it is an issue that is distinct and separate from universal service support. 85 Md. PSC at 215.

At pages 16-220 of Order No. 71485, we went on to discuss universal service, and stated that we anticipated instituting a proceeding in the future on universal service issues. We then said that the cost studies to be presented in Phase II would answer questions about whether residential rates cover incremental, shared, and common costs, and whether additional revenues need to be obtained from a universal service funding mechanism.

Accordingly, we have stated clearly that universal service considerations are to be dealt with separately in another proceeding.[16] Any mark-up above the long run incremental costs of interconnection is to be set at a level designed to ensure that a carrier recovers a fair share of its joint and common costs. The mark-up has nothing to do with helping BA-MD recover its joint and common costs at a level sufficient to allow it, with no additional efficiency efforts of its own, to maintain rates at levels necessary to ensure universal service. Instead, whether any subsidy is needed to ensure universal service, and the amount of the subsidy, if any, will be determined in a universal service proceeding.

In Order No. 71485, we also said that in Phase II cost allocation analysis was to be presented that would allow a determination of whether residential rates produce revenues that cover incremental costs, whether those rates produce an equitable

[16] Indeed, the Commission, by this Order, today institutes a universal service proceeding.

contribution to BA-MD's fixed and common costs, whether additional revenues are needed for residential service, and whether such additional revenues should be obtained from universal service funding. *Id.* at 215-216.

The cost information[17] presented by BA-MD in Phase II shows that it generally earns more from urban areas, and business customers, than it does from rural areas, and residential customers. However Bell Atlantic's own information also shows that, on a total service basis, BA-MD more than covers its direct incremental costs of business and residential service in every county in the State

Accordingly, we affirm our decision to entrust universal service support issues to a separate proceeding. We will consider interconnection rate issues in this proceeding in the context of appropriate ratemaking treatment of a service -- interconnection -- that is absolutely essential to the establishment and development of a network of local exchange networks in the State. Universal service issues can be considered in another proceeding which, by this Order, the Commission institutes.

Importantly, the decision to institute a universal service proceeding does not include in it a predetermination that a universal service fee of some sort will be necessary. The

[17] It should be noted here that some parties dispute the accuracy of the cost studies, contentions denied by BA-MD. Most of the disputes pertain to subsidy issues. Therefore, there is no need to resolve the disputes at this time. Subsidy levels, if any, will be determined in the universal service proceeding.

determination that a fee is necessary, if at all, will be made in the universal service proceeding. The level of support and the size of the fee, if any, also will be determined there. If a subsidy is needed, we also will determine how it should be collected and to whom it should flow.

Additionally, in that proceeding we expect to have before us other options for maintaining Maryland's current telephone service subscription ratio of 95 percent of households.

Further, in the universal service proceeding we will examine any other relevant factors that the parties may raise pertaining to whether a special level of support is needed for BA-MD to serve some customers. However, the evidence presented in this proceeding leaves us believing that far from being a negative factor in its operations, the ubiquitous nature of Bell Atlantic's network in Maryland presents BA-MD with marketing and business advantages not enjoyed by its competitors. We also believe that the accelerated growth in telephone numbers, most graphically demonstrated by the need to adopt new area codes in the State four times sooner than Bell Atlantic anticipated in 1990, will provide BA-MD with opportunities for growth even if competitors capture some share of the market.

Having rejected Bell Atlantic's proposed rate structure and rates for co-carriers to interconnect with BA-MD, we now turn to a discussion of the remaining interconnection rate proposals. First, with the separation of universal service considerations from other considerations relevant to the development of a proper interconnection rate, much of the impetus for asymmetrical interconnection rates is mooted. Additionally, while BA-MD is entitled to recovery of a share of its joint and common costs in the rate for interconnection, we were quite clear in Order No. 71485 that the entitlement only arises out of adherence to proper cost-based ratemaking principles. Furthermore, while Bell Atlantic is entitled to recover some of its joint and common costs in its interconnection rate, its competitors are entitled to recovery of some of their joint and common costs in their interconnection rates, out of adherence to the same ratemaking principles.

Finally, in Order No. 71155 and Order No. 71485 we agreed with the principle that a carrier's interconnection rate should be pegged to its costs of providing interconnection service. The record in this proceeding reflects: (1) that all carriers have similar long run incremental costs of interconnection, because they utilize similar facilities to complete calls; and (2) that all carriers will need to recover joint and common costs if they are to remain in business. For these reasons, and because any special revenue requirements carriers may have in order to maintain universal service in the State will be considered in another proceeding, we determine that a reciprocal interconnection rate structure should be used.

A reciprocal interconnection rate can follow one of several forms. It can be applied on a minutes-of-use basis, on a flat-rated basis, or it can be accomplished through no rate at all. This last option, of course, is the bill-and-keep option.

Bill-and-keep refers to a system of mutual traffic exchange. Accordingly, carrier A agrees to terminate calls placed to its customers by customers of carrier B, in exchange for carrier B terminating calls placed to its customers by customers of carrier A. The term "bill-and-keep" refers to the fact that under this system a carrier bills its own customers for the calls they make, and keeps all of those revenues for itself. Thus, an advantage to bill-and-keep is that a carrier does not need to assess another carrier interconnection charges based on minutes of use. Nor do they have to audit and verify minutes of use. Therefore, bill-and-keep is particularly efficient and easy and inexpensive to administer. We recognized this fact in Phase I. *Id.* at 56

Bill-and-keep is a type of reciprocal, symmetrical interconnection rate structure, because both carriers get the same rate, namely $0, for terminating each other's calls. In this system, a carrier covers its direct costs associated with terminating calls on its network, whether those calls were placed by its own or another carrier's customers, out of the revenues it receives from its own customers. Thus, another advantage to bill-and-keep is that it enables the carrier that can most cheaply terminate calls to lower its prices, a benefit to consumers. In fact, since any rate for interconnection establishes a price floor under which a carrier cannot profitably provide service, setting the interconnection price floor at zero, as bill-and-keep does, maximizes competitive forces.

BA-MD rightly observes that we rejected bill-and-keep in Phase I. There, we said that:

> BA-Md. acknowledges that MFS-I should be able to charge for access to its network, just as BA-Md. does, but argues that MFS-I's rates should be based on MFS-I's costs. Our agreement with this proposition constitutes one reason why we reject the bill-and-keep approach in this case. Moreover, as it will be some time before traffic will flow in equal volume in both directions, we agree that, although efficient, the bill-and-keep approach for charging for terminating traffic should be rejected at this time. 85 Md. PSC at 56.

However, our earlier determination in this Order that carriers bear similar direct incremental interconnection costs moots the Phase I presumption that carriers have differing costs of interconnection.

This leaves the possibility of unequal traffic flows as a reason remaining for supporting our previous decision rejecting bill-and-keep. If traffic flows are uneven, one carrier will incur a disproportionate share of termination costs without compensation.

Another option presented for our consideration is a specific interconnection rate, to be applied to all carriers equally. A specific reciprocal and symmetrical rate leads to results similar, but not identical, to those obtained by bill-and-keep. The advantage of this method over bill-and-keep materializes if traffic volumes are not equal. The disadvantages are that billing imposes costs on all carriers, and that any rate above zero establishes a price floor that cannot be competed away.

The most developed, specific interconnection rate proposal from a party other than Bell Atlantic is presented by Staff witness Waldau. In his direct testimony, he calculates a per minute termination cost to BA-MD of 0.6 cents per minute, inclusive of direct, shared, common costs, and contribution. He further proposes capping the rate BA-MD would pay to a co-carrier at 0.6 cents/MOU.

After some parties, including Bell Atlantic, stated that interconnection rates should be different depending on whether a carrier terminates calls at a BA-MD tandem switch or a BA-MD end office, Mr. Waldau revised his proposal. In rebuttal testimony, he calculates the total direct and shared costs of terminating a call at a tandem, then marks up that sum by 16 percent to reflect contribution to BA-MD's common costs. He states this level of markup reflects Ms. Beard's testimony that common costs represent 16 percent of Bell Atlantic's total direct and shared costs. The calculation of direct, shared and common costs is less than half of his proposed rate for tandem interconnection of 0.6 cents/MOU.[18] Therefore, he notes that his proposed 0.6 cents/MOU tandem interconnection rate contains substantial additional contribution to BA-MD's common costs, and that the rate should be considered the maximum rate the Commission should consider.

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[18] The actual costs for tandem and end office interconnection are proprietary and will not be printed here.

Employing the same methodology used to determine tandem interconnection costs, Mr. Waldau arrives at a maximum end office interconnection rate of 0.4 cents/MOU. He testified that carriers interconnecting directly to a BA-MD end office would generate fewer costs to the Bell Atlantic system than would carriers interconnecting only at a tandem, thus explaining the difference between his tandem and end office interconnection rates.

On brief, the Office of People's Counsel supports Staff's interconnection rates. It believes them to be the fairest to all parties, and sufficient to protect the interests of residential ratepayers.

As noted previously, Bell Atlantic criticizes symmetrical interconnection rates and contends that Staff's proposed rates for interconnection with BA-MD are much too low. It does, however, support an interconnection rate that it would pay to co-carriers of 0.5 cents/MOU, based on Mr. Gilbert's assumptions about the co-carriers' costs.

Some of the other parties question the setting of tandem and end office interconnection rates at different levels. Additionally, some parties question the setting of tandem and end office interconnection rates at levels more than double the costs (direct, shared and common) of providing interconnection. They would prefer the rates to be set at, or at least closer to, cost.

After considering the record, we adopt a rate structure substantially the same as that proposed by Staff.[19] BA-MD will be allowed to charge one rate for co-carrier interconnection at a Bell Atlantic end office, and another for interconnection at a Bell Atlantic tandem. The rates for residential interconnection service shall be the same as those for business interconnection service.

We have carefully considered the rate Bell Atlantic will pay co-carriers for interconnection with their networks. Since co-carriers do not mirror BA-MD's network configuration of tandem switches and end offices, but instead have, in effect, a switch that serves both tandem and end office functions, establishing a rate that is symmetrical with the rate co-carriers will pay to Bell Atlantic is problematical.

Legitimate cases can be made for a co-carrier's termination rate that equals BA-MD's rate for end office interconnection, or Bell Atlantic's rate for tandem interconnection, or some blending of those two rates. In order to provide incentives for co-carriers to build out their networks, we find that the rate BA-MD will pay to co-carriers should equal the rate co-carriers pay for interconnection with Bell Atlantic's end offices.

In determining the rates to be applied, as stated in Order No. 71485 we believe it is appropriate to set interconnection rates at levels that allow carriers to recover

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[19] We decline to accept bill-and-keep, at this time, because we believe that the evidence concerning traffic volumes is not substantial enough for us to rely on traffic being balanced.

their direct, joint and common costs. We also recognize that determining and allocating a company's costs of providing services, especially the costs common to all of those services, is not a matter of pure mathematics. Considerable judgment is required as well.

The maximum rates proposed by Mr. Waldau exceed BA-MD's direct and shared costs of providing interconnection by a wide margin. His maximum rates also exceed, by a factor of more than 100 percent, the sum of BA-MD's direct, shared, and a healthy allocation of common costs. We want to be conservative in setting cost-based interconnection rates, in order to recognize the judgmental nature of the cost determination and allocation process. However, we believe that an essential service such as interconnection should not be priced at a premium. Accordingly, after weighing these considerations, we adopt a rate of 0.5 cents/MOU for interconnection at BA-MD's tandems and 0.3 cents/MOU for interconnection at its end offices. BA-MD shall pay MFSI-MD and other new local service entrants the same 0.3 cents/MOU rate for termination of calls on their networks.

We note that TCG proffers a flat-rated port option. Under this option, a carrier would determine the number of ports it would need to provide sufficient busy-hour interconnection capacity with a competitor's system and would pay a flat rate per port. Staff supports a finding that carriers should be allowed to use this option as an alternative to a minutes-of-use-based rate.

We do not mandate the offering of this option at this time. The majority of the parties prefer a MOU-based rate structure to a flat rate. Additionally, we are taking many steps to encourage local exchange competition in this Order, and TCG's proposal, we believe, constitutes one variable too many at this time. We believe the interconnection rates contained in this Order are reasonable and will permit new entrants to undertake the provision of local exchange service. Accordingly, we will observe the reaction and operation of the competitive markets to the MOU-based rates and our other decisions herein before reconsidering mandating a flat-rate option. However, we are not opposed to considering voluntary agreements between carriers that provide for the use of this or other interconnection options.

As a final observation on interconnection of local exchange networks, we realize that future conditions could require changes to the interconnection policies and rates adopted herein. Moreover, it is possible that all local exchange carriers could be subjected to universal service fees, depending on the outcome of the universal service proceeding. We also trust that Bell Atlantic will notify us if its ability to provide service at reasonable rates to Marylanders becomes jeopardized. However, we believe the more likely scenario will be similar to that realized when the toll markets were opened to competition. There, while market leader AT&T saw its huge market share diminished, the tremendous stimulation applied to the market by competition resulted in a vast increase in toll calling, revenue growth for the industry as a whole, including AT&T, and falling prices for consumers. Thus, we are inclined to believe that while BA-MD will lose some existing customers to co-carriers, the competitive spur will provide an incentive to be more efficient and will increase Bell Atlantic's focus on price and service, resulting in new business growth that will more than offset any losses.

### C. **Dial Tone Line Unbundling**

In Phase I, MFSI-MD asked us to unbundle BA-MD's dial tone line ("DTL") facilities into "links" and "ports,"[20] and to allow MFSI-MD to resell the unbundled facilities. In Phase I, BA-MD said it was technically feasible to provide interconnection to either links or ports on an unbundled basis but argued that the record was insufficient to order unbundling. MFSI-MD concurred that pricing of unbundled links and ports should await Phase II.

In Order No. 71155, we approved DTL unbundling on a conceptual basis. However, we deferred other decisions on DTL unbundling to Phase II, where we would have better information on implementation and rate issues. 85 Md. PSC at 54.

In February 1995, MFSI-MD and BA-MD undertook a joint test of the technical and operational aspects of providing unbundled voice-grade business dial tone lines in Maryland. The

[20] A link is the transmission path between the customer's premises and the central office serving that customer, while a port is the central office equipment that connects the link to the switch, provides a dial tone and associates a unique telephone number to the link.

two parties anticipated finishing the trial by June 1, 1995, but were unable to do so. At MFSI-MD's request, the test was extended to September 1, 1995, which was after the close of the record in this proceeding.

Thereafter on November 20, 1995, BA-MD filed a report detailing the results of the trial. On or near that date, it also filed Transmittal No. 939 and Transmittal No. 941, containing tariffs proposing rates and regulations for unbundled business links and services to connect them to a co-carrier's collocated facilities. On November 22, 1995, MFSI-MD filed a letter protesting BA-MD's unilateral filing of the unbundling study. MFSI-MD disavowed the report's representations concerning events during the trial and the conclusions to be drawn from it.

At the Administrative Meeting of December 20, 1995, we rejected Bell Atlantic's proposed tariffs contained in Transmittal Nos. 939 and 941. BA-MD is herein directed to file new tariffs allowing for the purchase of unbundled links and ports, with terms consistent with the guidance contained in this Order.

The record in Phase II is insufficient to allow us to conclusively determine all issues pertaining to rates for and terms and conditions of unbundled links and ports. However, the record is sufficient to allow us to make some findings and to set some interim terms and rates. First, the parties have followed our Phase I decision approving the unbundling of BA-MD's DTLs into links and ports.[21] Second, the parties agree on which network functionalities are associated with an unbundled link, and which ones are associated with an unbundled port.[22]

Third, the parties agree that, generally, the price of unbundled links and ports should be set at rates that cover long run incremental costs plus a contribution to BA-MD's joint and common costs, which is acceptable to us.[23] We anticipate pricing unbundled links and ports consistent with this general concept. Also to be determined are: whether buyers of large numbers of unbundled links and ports should receive lower rates than buyers of few links and ports; whether and under what circumstances links are essential facilities; prices or pricing standards for "non-essential" links, if we decide that some links are non-

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[21] In Phase I, we established that Phase II unbundling issues would be limited to those concerning the provision of unbundled links and ports. In Phase II, AT&T advances the unbundling of BA-MD's network into basic network functions, or "BNFs." Staff believes we should investigate this idea, but in a separate proceeding, not here. Since work remains to be done on the pricing of unbundled links and ports, we decline to act on further unbundling issues at this time.

[22] Staff witness Starkey provided concise descriptions of these functionalities, with which BA-MD and MFSI-MD expressed substantial agreement. Accordingly, we adopt, at this time, a functional definition of an unbundled link as including all transport features, including the provision and maintenance of a physical or vertical pathway from the customer's premises up to a local exchange company's ("LEC") horizontal distribution frame. An unbundled port, on the other hand, shall include the switching and usage features contained in Mr. Starkey's description of an unbundled port. In this way, all of the functions included within bundled DTL service shall be made available in one of the two unbundled components.

[23] The parties seem to disagree on whether this pricing principle should apply to all unbundled links. Using a term adopted from anti-trust law, Bell Atlantic asserts that only those links that fit the definition of an "essential facility" should be subject to cost-plus pricing. On brief, BA-MD contends that whenever there are practical competitive alternatives to the use of a BA-MD link, then Bell Atlantic should be allowed to market price the link. The other parties do not differentiate between links in this manner.

essential; the existence and extent, if any, of additional costs[24] incurred by BA-MD due to unbundling; and the propriety of recovering any of those additional costs whether by way of a monthly charge for a link or a port, or through a non-recurring charge.[25]

We also determine that interim rates for unbundled links and ports shall be set at this time, to remain effective until the issues listed above are decided. This will enable unbundled facilities to be resold now, a factor important to the development of competition.

The chief choices before us on setting interim unbundled DTL rates are the proposals presented by Bell Atlantic and Staff. Bell Atlantic proposes not setting interim rates, saying it prefers to wait for the establishment of permanent rates based on the results of the DTL unbundling study.[26] Staff, supported by MFSI-MD, the Office of People's Counsel, and several other parties, proposes setting rates for unbundled links and

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[24] Bell Atlantic contends that additional costs exist, and that these costs include costs of reconfiguring its network to provide unbundled links and ports, and costs incurred due to special, possibly manual, testing procedures that BA-MD would have to employ on the unbundled facilities.

[25] As noted in the preceding footnote, BA-MD contends that it will incur costs attributable to unbundling the DTL. Other parties contest the extent of these costs, and the propriety of allocating all of them to unbundled DTL rates. For example, Staff witness Starkey stated that any reconfiguration costs should be given the same treatment that Bell Atlantic used during the introduction of the advanced and expensive Signaling System 7. According to Staff, BA-MD did not assign the costs of Signaling System 7 to the special services that BA-MD was able to offer as a result of installing the new equipment.

[26] It should be noted, however, that MFSI-MD suggested and Bell Atlantic agreed to impose interim rates of $18.50 per month on the unbundled links BA-MD will sell to MFSI-MD during the course of the unbundled DTL trial.

ports at levels that, when totalled, would equal (or be less than) the price of bundled local dial tone line service. While Staff proposes its method as a permanent rate structure, it also could be used temporarily pending final resolution of unbundling issues.

Under Staff's proposal, the ratio between the prices for unbundled links and ports would mirror the ratio between the direct costs of those components. For example, assume a bundled DTL costs BA-MD $10.00 to provide. Assume further that $8.00 (80 percent) of the cost is attributable to the link, and $2.00 (20 percent) to the port. Assume further that BA-MD's price for a bundled DTL is $15.00. Under Staff's method, if we determined that the interim unbundled rates should equal the bundled DTL of $15.00, $12.00 (80 percent of $15.00) would be the unbundled link price, and $3.00 (20 percent of $15.00) would be the unbundled port price.

Staff and those parties in agreement contend that this pricing allows Bell Atlantic to recover the same revenues from its unbundled links and ports that it does from its bundled DTL service. They say that if links and ports are unbundled into sub-elements in the future, the methodology can be used to price sub-elements, too. More importantly to them, they hope that tariffing link and port rates will encourage BA-MD to view purchasers of these DTL components as customers and revenue producers, and will encourage movement on the resolution of permanent rates.

Bell Atlantic points to the existence of the unbundled dial tone line trial -- at rates suggested by MFSI-MD -- to show that there is no harm to co-carriers in waiting for the setting of permanent rates. In a letter dated November 21, 1995, Bell Atlantic asserts that BA-MD and MFSI-MD have an interim agreement extending the terms of the trial. Otherwise, BA-MD restricts its arguments on DTL unbundling to contentions that we should ensure that permanent link and port rates include BA-MD's costs of reconfiguring its network and changing its testing procedures, as discussed above.

We are of the opinion that interim prices for unbundled business links and ports should be set consistent with Staff's proposal. These prices should allow MFSI-MD and other new entrants to operate, while ensuring that BA-MD recovers a proportionate share of the current bundled DTL rates. Moreover, since Bell Atlantic's bundled DTL rates in urban areas (where competition is most likely to begin) exceed its costs of providing the DTLs, setting unbundled rates whose sum equals the bundled rate will produce a cushion that will help BA-MD cover costs, if any, of unbundling.

We determine that the interim rates to be developed consistent with the structure adopted herein shall supplant those contained in the BA-MD/MFSI-MD interim agreement for the provision of unbundled business links. To the extent that a new entrant obtains Commission approval to serve residential customers prior to the conclusion of the unbundling proceeding, interim rates for residential unbundled links and ports shall be developed using the Staff methodology adopted above. Bell Atlantic's tariffs for unbundled links and ports may specify that business customers may only use unbundled business links and ports. BA-MD shall propose interim rates consistent with the structure adopted above as soon as possible, but in no event later than 30 days from the date of this Order.

**D. Regulation of New Entrants**

In the April 11, 1995 issues list, we asked the parties to address five questions pertaining to our regulation of new entrants. With the exception of the determination of a rate for the termination of calls placed by BA-MD customers to the customers of new entrants, discussed in Section B. above, the responses disclosed general agreement among the parties on these issues.

Accordingly, there is no dispute that, given their lack of market power, the end user rates of new entrants generally should be accepted by us as just and reasonable, with no supporting cost data. However, we retain our authority to require cost support under appropriate circumstances, such as any instance where the new entrant has a dominant market position.

New entrants will be controlling bottleneck facilities when providing interexchange carrier access services, just as BA-MD does. Since, initially at least, these carriers will be small compared to Bell Atlantic, we find that new entrants' rates for switched access to their networks for IXCs should be capped at the levels of BA-MD's switched access rates for IXCs. Any proposed switched access rate at or below the level of BA-MD's rate will be deemed just and reasonable. Any proposed rate exceeding Bell Atlantic's rate must be supported with adequate cost data. All intrastate access charges applicable to IXCs must be non-discriminatory.

The parties agree that new entrants should be required to allow their customers to presubscribe to an IXC for intrastate long distance calls made between local access and transport areas ("LATAs"). Staff, IDDS, and MFSI-MD advocate a different outcome on the issue of presubscription for long distance calls made within LATAs. They say that intraLATA presubscription should not happen until BA-MD offers intraLATA presubscription. No party voiced disagreement on brief with this proposition. Additionally, as discussed later in this Order, we have determined that new local exchange entrants may not bundle interLATA long distance service with local exchange services, in order to mirror the conditions under which BA-MD currently operates. Accordingly, new entrants, if they so choose, need not allow their customers to presubscribe to IXCs for intraLATA toll calling until BA-MD is made to do so.

The next issue pertaining to our regulation of new entrants is whether new entrants should be required to offer unbundled rate elements for resale. Staff and MFSI-MD, following a process initially established for BA-MD in Case No. 8587 (see 85 Md. PSC at 213), agree that new entrants should offer unbundled elements for resale when unbundling is requested by a co-carrier, reseller, or interconnector, and wherever it is reasonable and technically feasible to do so without causing damage to network integrity. These two parties also agree that unbundling disputes should be resolved through a collaborative open network architecture ("ONA") process under Staff's supervision, with the Commission being available to resolve issues not settled through the collaborative process. LDDS makes similar proposals. Staff's proposal seems workable and fair, is consistent with our established policies, and, therefore, is accepted.

Finally, there is general agreement among the parties that we should regulate non-facilities-based local exchange companies no differently than facilities-based companies. However, the parties note that there may be situations requiring facilities-based carriers to be subject to regulatory requirements that would not be applicable to resellers, such as our decision to subject facilities-based carriers to the ONA unbundling process, as described above. We agree with these principles.

**E. <u>"Packaging" of Services by New Entrants</u>**

In our April 11, 1995 letter, we asked if new entrants should be permitted to package local exchange service with other services. Citing the lack of market power possessed by new entrants, the parties believe that, in general, packaging should be permitted. Bell Atlantic, however, believes that new entrants should not yet be allowed to bundle local exchange service with interLATA toll service.